

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

THREE AMIGOS HOLDINGS, INC.,

*Plaintiff,*

v.

MAXBEN HOLDINGS, LLC,

*Defendant.*

1: 23 Civ. 08798

New York County Index No.:  
654562/2023

**NOTICE OF REMOVAL**

PLEASE TAKE NOTICE that Defendant Maxben Holdings, LLC (“Defendant”), by its counsel, hereby remove this action, and all claims and causes of action therein, from the Supreme Court of the State of New York, New York County, to the United States Court for the Southern District of New York, pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, and Rule 81.8 of the Local Rules of the United States District Court for the Southern District of New York. Defendant appears for the purpose of removal only and for no other purpose and reserves all rights, claims and defenses of any nature whatsoever, including, but not limited to, defenses related to service of process, personal jurisdiction, and venue. The grounds for removal are as follows:

1. Plaintiff Three Amigos Holdings, Inc. (“Plaintiff”) commenced this action by filing a summons and motion for summary judgment in lieu of a complaint, pursuant to section 3213 of the New York Civil Practice law and Rules,<sup>1</sup> on September 18, 2023 in the Supreme Court of the

<sup>1</sup> CPLR 3213 provides that “[w]hen an action is based upon an instrument for the payment of money only or upon any judgment, the plaintiff may serve with the summons a notice of motion for summary judgment and the supporting papers in lieu of a complaint.”

State of New York, New York County, Index No. 654562/2023 (the “State Court Matter”). Plaintiff seeks money damages against Defendant for an alleged breach of contract in the amount of \$552,287.50. Attached hereto as **Exhibit A** is a true and accurate copy of the pleadings, and other papers filed by Plaintiff in support of their summary judgment in lieu of a complaint.

2. Plaintiff served copies of the summons and motion for summary judgment in lieu of complaint through Defendant’s registered agent, Harvard Business Services, Inc., on September 22, 2023. Attached hereto as **Exhibit B** is a true and accurate copy of the two Affirmation of Services filed in the State Court Matter.

3. Defendant has not yet responded or opposed Plaintiff’s pending summary judgment in lieu of complaint, and no other proceedings have occurred in the State Court Matter.

4. The Supreme Court of the State of New York, County of New York, is located within the geographical boundaries of the United States District Court for the Southern District of New York. *See* 28 U.S.C. § 112(b).

5. In accordance with 28 U.S.C. § 1446(d), Defendant will promptly file a copy of this Notice of Removal with the Clerk of the Supreme Court of the State of New York, County of New York, and serve a copy of this Notice of Removal on counsel for Plaintiff.

6. This Notice of Removal is signed pursuant to Fed. R. Civ. P. 11.

7. The State Court Matter is a civil action over which this Court has original jurisdiction pursuant to 28 U.S.C. § 1332, and is one which may be removed to this Court pursuant to the provisions of 28 U.S.C. § 1441, in that the matter in controversy exceeds the value of \$75,000.00, exclusive of interest and costs and is between citizens of different states.

8. Pursuant to Plaintiff's motion papers in support of its summary judgment in lieu of a complaint, Plaintiff is a Delaware corporation that maintains its principal place of business in Dover, Delaware. Upon information and belief, Plaintiff is a citizen of the state of Delaware.

9. Defendant is a Limited Liability Company and its sole member, Idin Dalpour, is a citizen of New York.

10. Consequently, removal of this action is proper under 28 U.S.C. § 1441(a), which provides that "[a]ny civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by the defendant or the defendants, to the district court of the United States for the district and division embracing the place where such action is pending."

**WHEREFORE**, notice is given that this action is removed from the Supreme Court of the State of New York, New York County, to the United States District Court for the Southern District of New York.

Dated: New York, New York  
October 6, 2023

Respectfully submitted,

**MORITT HOCK & HAMROFF LLP**

By: /s/ MARSHALL DWORKIN

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*Attorneys for Defendant*

**CERTIFICATE OF SERVICE**

The undersigned attorney certifies that a copy of the foregoing has been furnished to Counsel for Plaintiff by e-service and overnight delivery on this 6 day of October, 2023.

/S/ MARSHALL DWORKIN  
Marshall O. Dworkin, Esq.